

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

JAMES WILBERT WALKER, JR.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No.: 2:05-CV-1051-N
	)	
BILLY MITCHEM, et al.,	)	
	)	
Respondents.	)	

**PETITIONER'S MOTION FOR STAY ON CLARIFICATION OF RECORD**

Petitioner, James Wilbert Walker, Jr., requests this Honorable Court to Stay any further proceedings in this matter and extend time in which to file his Response to this Court's Order of the 30<sup>th</sup> of November, 2005, and in support of his Motion, Petitioner represents unto the Court as follows:

1. That the Petitioner was charged with, and the basis of this appeal, is the conviction for second degree rape entered against him in the Circuit Court of Chilton County, Alabama on December 13, 1999.
2. That this Honorable Court, based on the Respondents' contention, represents in its Order of the 30<sup>th</sup> of November, 2005 in § I, page 2, "Walker's controlled substance convictions became final in 2001 – **after** the effective date of the statute of limitations." (emphasis added by Honorable Court).
3. That Petitioner is unaware of any controlled substance conviction in which Respondent contends said tolling of the effective date of the statute of limitations. Petitioner would respectfully request clarification as to the material representation of a controlled substance conviction so as to properly address why this Petition should not be

Page 2, Motion  
Walker v. Mitchem, Civil Action No.: 2:05-CV-1051-N

---

dismissed as barred from the one-year limitation period established by 28 U.S.C. § 2244(d)(1).

4. That this Honorable Court represents in its Order of the 30<sup>th</sup> of November, 2005 in § I, page 3, “The Petitioner did not further appeal his robbery convictions.”

5. That Petitioner is neither aware of nor has he ever been charged or convicted of robbery. Petitioner would respectfully request clarification as to the material representation of a conviction of robbery, and ask this Honorable Court to clarify said statement in an attempt by the Petitioner to properly respond to any denial of his claims by the state courts.

WHEREFORE, PREMISES CONSIDERED, in regards to due justice, Petitioner respectfully moves this Court to grant a stay of any further proceedings in an effort to correct the record before it, and to clarify the basis of this appeal so that the Petitioner can properly respond as ordered by this Honorable Court.

Respectfully submitted on this the 17<sup>th</sup> day of January, 2006.

s/ Lindsay B. Erwin  
Lindsay B. Erwin, (ERW005)  
Attorney for Petitioner  
101 Bristol Lane  
Birmingham, Alabama 35242

Certificate of Service

I hereby certify that on this 17<sup>th</sup> day of January, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and I hereby certify that I have electronically sent a copy of the foregoing Motion via e-mail to the following CM/ECF participant:

Ms. Elizabeth Ray Butler, Esq.  
Office of the Attorney General  
Alabama State House  
11 South Union Street  
Montgomery, Alabama 36130  
Ebutler@ago.state.al.us

s/ Lindsay B. Erwin  
Lindsay B. Erwin, (ERW005)